

Sept. 2016

Child Nutrition Program Procurement: State and Federal Rules



Child and Adult Nutrition Services





Who must follow procurement rules?

My school is too small that doesn't apply to my school.

My school doesn't use a management company, so that doesn't apply to me.

I can only get one vendor to service my school, so those rules don't apply to me.

My school is BLE or is a private school, those rules do not apply here.

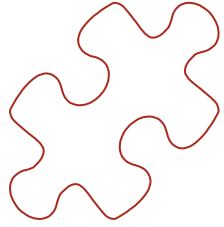
Procurement Rules apply to
all Schools and Agencies
operating the National
School Lunch Program,
or any other Child
Nutrition Program



Why?

Using federal
taxpayer dollars
requires you to use
those dollars to
maximize
free and open
competition





Procurement Rules

- Result in better quality, price, & service for the school
- Ensure fair and open competition
- You must use the most restrictive of state, local, or federal guidelines
- For large and small purchases

Requirements for NSLP & SBP



7 CFR Parts 210.21 and 220.16



Procurement Plan

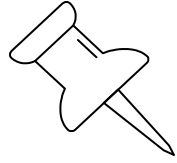
SFA's must have **documented procurement procedures** which reflect State, local, tribal, and federal laws and regulations, when applicable.

200.318(a)



Buy American

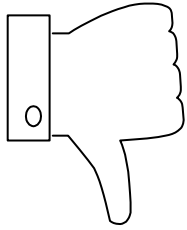
Using federal funds requires you to **purchase foods and supplies that are grown, made, and processed in America**, whenever possible.



Written Standards of Conduct

SFA's are required to have a written code of conduct covering **conflicts of interest** and ensuring fair use of school foodservice funds.

200.318



Conflicts of Interest



- No one person can benefit at the expense of their school/agency or public interest
- Excuse yourself if involved in the conflict of interest
- Check district requirements for signing conflict of interest statement
- **Vendors that help write the bid, cannot respond to the bid.**

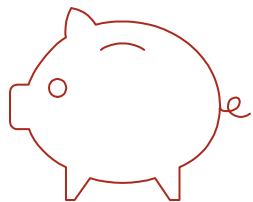
Conflict of Interest

Employees will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub agreements.



Where do you draw the line for a conflict of interest?





Nonprofit School Food Service Funds

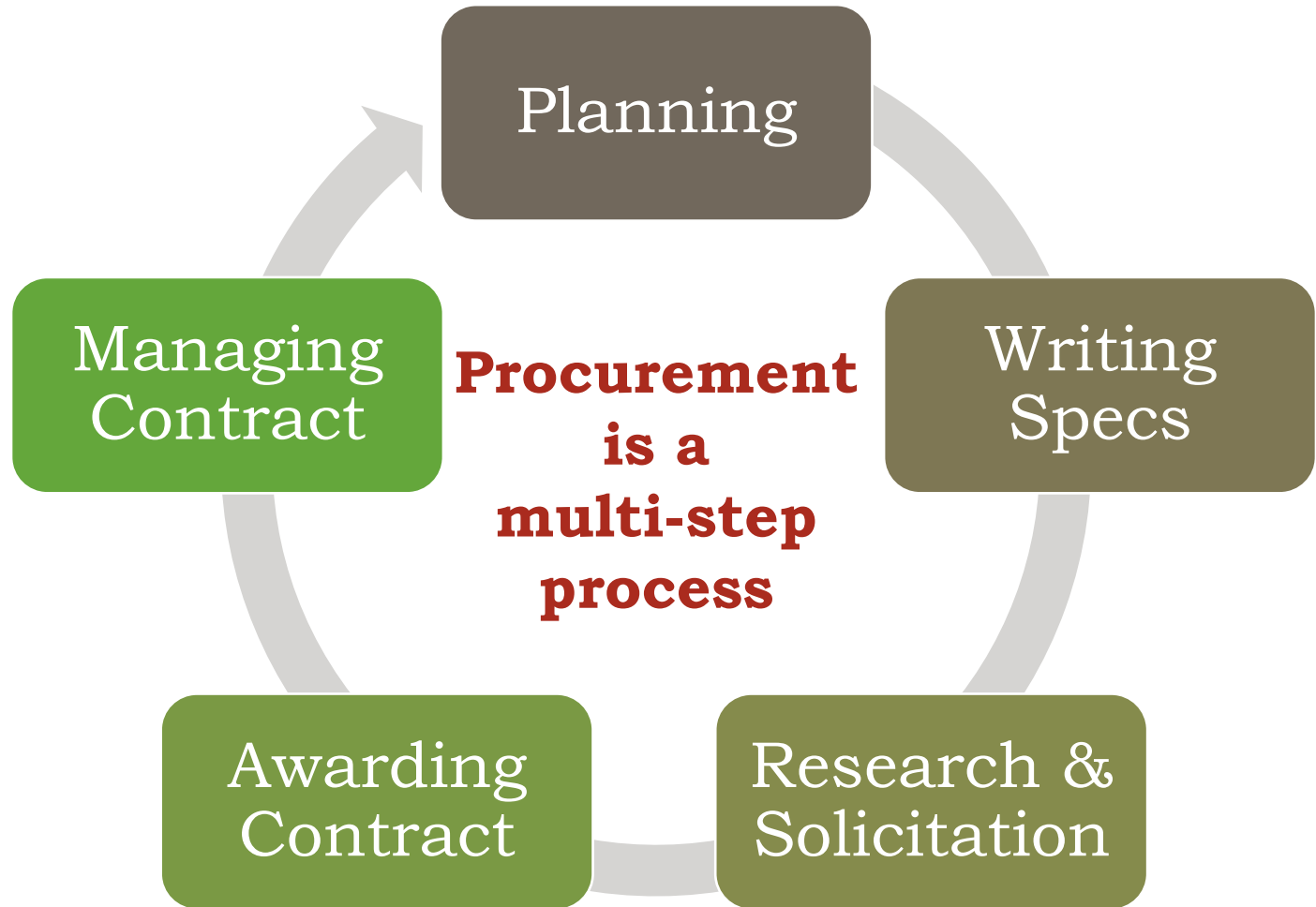
- Can only be used to purchase allowable goods and services
- All funds that go into nonprofit school foodservice account must be used within program regulations

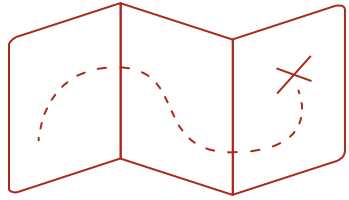
210.2, 210.14(e), 210.14(f), 220.2



Group Buying Organizations, Group Purchasing Organizations, Cooperative Purchasing Between Multiple Organizations, etc.

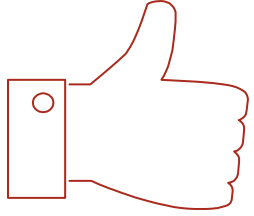
- **All groups must follow same procurement requirements**
- Examples in SD: Avera PACE, Buy Board, SFAs coordinating purchasing together





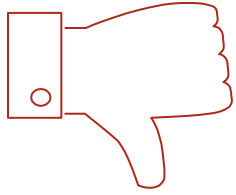
Step 1: Preparation for Procurement

- Write your menus
- Review your procurement plan
- Identify what you will purchase
 - USDA Foods entitlement (Commodities)
- Estimate the cost of those items
- Develop or update bidders list
- Identify the procurement method to use



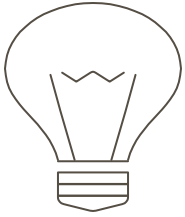
Step 2: Writing Specs

- Specifications are accurate, clear, and not overly restrictive
- Specifying a brand name item and specifying "brand name or equal"
 - It is better to specify a grade or quality level
- Describe quality and quantity of foods



Overly Restrictive Specs

- Specifying 1 brand name
- Drafting specs, terms & conditions, and award criteria so only 1 source can respond
- Allowing a vendor to draft terms/specs
- Changing award criteria without notifying all potential vendors



Step 3: Research & Solicitation

- Determine procurement method:
 - Formal vs. Informal vs. Micro
- Develop solicitation
- Evaluate responses

Services

SD Law

- **Informal:** < \$25,000
- **Formal:** ≥\$25,000

Supplies

(not perishable)

SD Law

- **Informal:** < \$25,000
- **Formal:** ≥\$25,000

Food Perishable

Federal Law

- **Informal:** <\$150,000
- **Formal:** ≥\$150,000



Think about it: How do you normally break up your food service purchases?

	Estimated category purchases are:	Informal	Formal
Grannies Bread Co	\$75,000 / 9 month school year	X	
Dairy Air Milk Co	\$275,000 / 9 month school year		X
Services			
Groceries			

Informal Procurement Methods

Services
less than
\$25,000

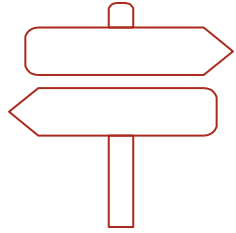
SDCL 5-18A-14

Supplies (not
perishable) less
than
\$25,000

SDCL 5-18A-14
SDCL 5-18A-22(12)

**Food/
Perishables**
less than
\$150,000

2 CFR 200.88



Informal

- Get quotes by phone, email, fax, or catalogs
- 2-3 vendors must be included in the solicitation
- Keep these documents for 3 yrs. past current year or longer if an audit is open

Request for Fax Quote
 *****This is not an order*****

Part 1

TO: (Distributor)	FROM: (SFA Name)
TO: (Distributor Contact Person)	FROM: (SFA Contact Person)
FAX: (Distributor)	PHONE: (SFA Contact Person Phone #)
Number of Pages:	Date: (Today's Date)
Quote good for: (# of days)	

Part 2

Return to _____ (Name) by _____ (Time) on _____ (Date) to _____ Fax Number _____

Date that product is needed at SFA: _____

Buy American Provision, to the maximum extent practicable, domestic agricultural commodities or products substantially processed in the United States must be purchased. Substantially means the final processed product contains over 51% domestically grown agricultural products.

Alternate bids will be considered on products, which meet or exceed products indicated on quote. If bidding alternate items, please include dietary specifications for the product to include: CN Label or Product Formulation Statement, and Nutrition Facts. If these dietary specifications are not included, bid will be considered incomplete. Distributor is to mark clearly alternate proposals.

Any reference to brand names is meant as descriptive, not restrictive.

"OR EQUAL": any brand name listed in the specifications as "or equal" or "or equivalent" shall establish the minimum requirements for quality, utility, durability, function, purpose, etc. Other product brands may be offered that are equal to or better than the product brand name. Bidder may show cost differences, alternates, and options in the space provided in the quote. This clause is not meant to be restrictive, but to set the minimum standard. AGENCY SHALL DETERMINE, IN ITS SOLE DISCRETION, WHETHER A PRODUCT OFFERED IS "EQUAL". When the designation is "or equal" or "equivalent" Agency shall make its decision after Bid Closing.

Part 3

A. Description	B. Mfg. #	C. Quantity	D. Price Per Unit	E. Total

Signature of Distributor: _____

Informal Procurement Documentation

- Fax Quote
- Phone Quote
- Running Quote
- Excel Log

www.doe.sd.gov/cans

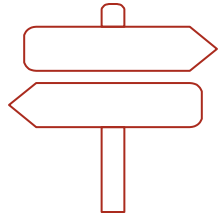
Informal Procurement Methods:

Micro-purchase

Services
<\$3,500

Supplies
<\$3,500

**Food/
Perishables**
<\$3,500



Micro-purchase

- Aggregate purchase amount cannot exceed \$3,500
- Micro-purchases must be distributed equally to suppliers
- Prices must be reasonable
- Can be awarded **without** informally soliciting competitive quotes

Micro-purchase **Misconceptions**

- Using one vendor is ok as long as all purchases are under \$3,500.
- My SFA can shop for the best price using this method.
- My SFA can choose how to “share the wealth.”

These statements are all FALSE!!

Formal Procurement Methods: IFB or RFP

Services
≥\$25,000

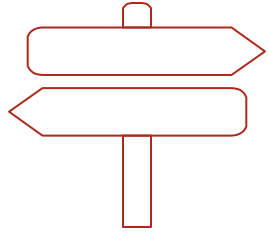
SDCL 5-18A-14

Supplies
(not perishable)
≥\$25,000

SDCL 5-18A-14
SDCL 5-18A-22(12)

**Food/
Perishables**
≥\$150,000

2 CFR 200.88



Formal

- Solicitations for contracts using sealed bids or competitive proposals
- Published, provide specs, include requirements of terms & conditions, include evaluation & award process
- Keep docs 3 yrs. past current year

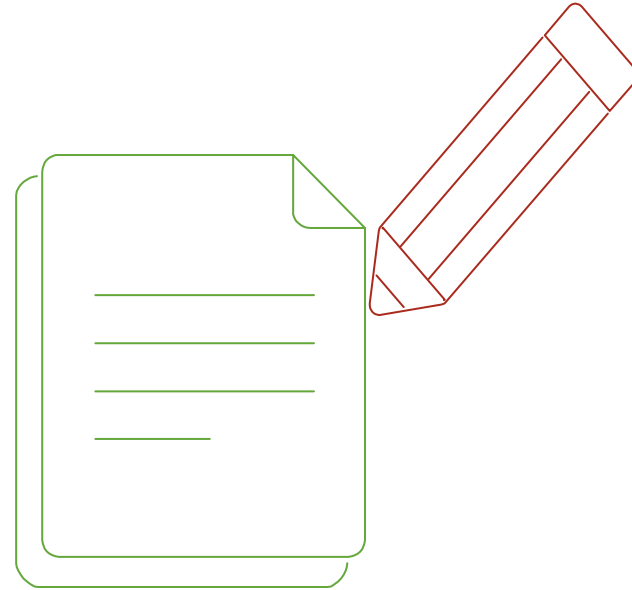
Competitive Sealed Bidding: Invitation for Bid (IFB)

- Specs easily developed
- Product/service is easy to identify
- Responses will differ only by **price**
- More than 1 source is willing & able to compete
- **No negotiating contract terms or price**

Competitive Proposals: Request for Proposal (RFP)

- Award based on scored factors that must include low cost
- The SFA can negotiate after evaluating proposals

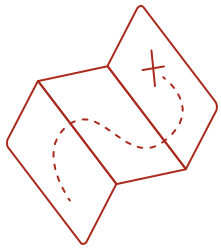
Other Contract Considerations





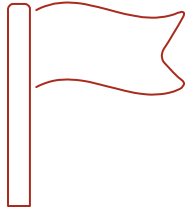
Overly Responsive

- Response includes items that were not in original solicitation
 - e.g. new signage for your cafeteria
- **Items cannot go into consideration for contract award if it was not in original solicitation!**



Geographic Preference

- Program operators can define & use local area to buy unprocessed locally grown or locally raised agricultural products
- SFA can determine the local area
- Memo SP18 – 2011 Procurement Geographic Preference Q&As dated February 1, 2011 contains more information



Step 4: Awarding the Contract

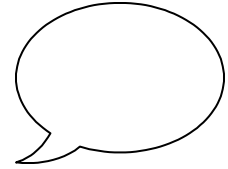
Awards must be made only to responsive and responsible vendors

Responsive
vendors product or
service meets the
SFA's specs

Responsible
vendor can & will fulfill
the terms & conditions of
the contract

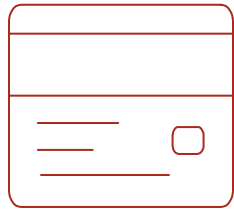
**Contract
Awarded!**
*I'm FINALLY
DONE,
right?*





Step 5: Contract Management

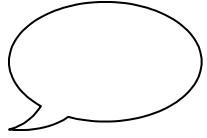
- Make sure your vendors follow through with the contract
- You provide your vendors with regular feedback on their performance throughout the life of the contract



Applicable credits

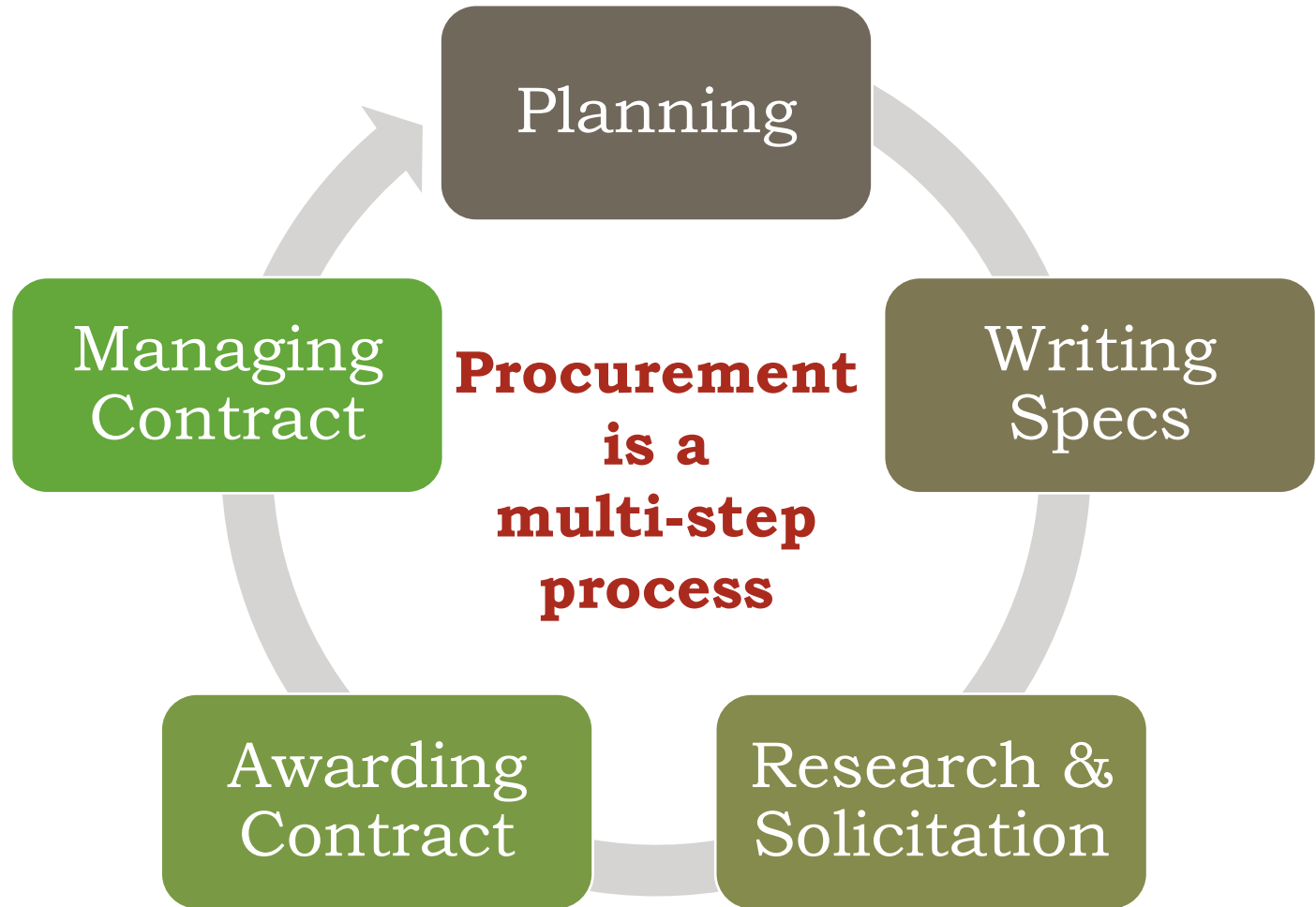
Discounts, rebates and credits must be credited to your nonprofit school foodservice account as a cost reduction or cash refund.

7 CFR Part 210.21(f)
2 CFR part 200.406



Report to Your Vendor

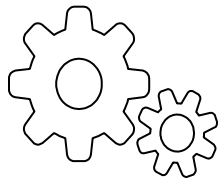
- Incorrect quantities delivered
- Deliveries were not on time
- Deliveries to the wrong location(s)
- Food fails to meet the quality specs
- Vendor is not following the contract substitution policy





Administrative Review

SY 16-17: a new
Procurement Module is
included in all
Administrative Reviews



Authorities

www.ecfr.gov

7 CFR 210	National School Lunch Program
7 CFR 215	Special Milk Program
7 CFR 220	School Breakfast Program
7 CFR 225	Summer Food Service Program
7 CFR 226	Child and Adult Care Food program
7 CFR 250	Donation of Foods for Use in the US ... (USDA Foods)
2 CFR 200	Uniform Administrative Requirements, Cost Principles, & Audit Requirements for Federal Awards



CANS website:

<http://doe.sd.gov/cans>

PROCUREMENT IN THE 21ST CENTURY & WORKSHOP - AND FINANCIAL MANAGEMENT TRAINING

Registration

Federal Procurement Standards Power Point, USDA 2/2016 – 38 slides

Procurement Power Point 4/2016 – 46 slides

Procurement Plan Example

ICN Procurement in the 21st Century

Informal Bid Quote Worksheet *Example*

Email Quote Request (Fillable) *Example*

Fax Quote Request (Handwritten) *Example*

Fax Quote Request (Fillable) *Example*

Phone Quotes (Printable) *Example*

Running Quote Log (Fillable) *Example*

Running Quote Log (Word/Printable) *Example*

Running Quote Log (PDF/Printable) *Example*

Bid Specification *Examples*

Instructions to complete Request for Proposal *Example*

Request for Proposal (Fillable) *Example*

Micro Purchases Explanation

Procurement Terms in Plain English

Code of Conduct Example

Food Procurement Flow Chart



SD Bid Booklet

South Dakota Local Government Guide For
Acquisitions, Disposables, and Exchanges

<http://legislativeaudit.sd.gov/docs/Bid%20Booklet%202013.pdf>



Additional Resources

- Institute of Child Nutrition (ICN)
nfsmi.org
- Procurement in the 21st Century

INSTITUTE OF
child nutrition
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RESOURCES

Competencies, Knowledge, and Skills for District Level School Nutrition

Education and Training Resources for School Nutrition Programs

ICN's research-based educational and



Training Opportunities

SNA SD Industry Conference

November 14-15

Cedar Shore Resort
1500 Shoreline Drive
Oacoma, SD 57365

*Bringing Industry and Schools together to
continue this important conversation!*

Child Nutrition Procurement: State & Federal Rules ASBO Sept. 2016

This training credits for 3 hours of training in

Key Area 2 Operations

2410: Product Specifications, 2420: Bid Solicitation & Eval,
2430: Purchase Food, Supplies & Equip, 2440: Food & Supplies Orders

Your Name:

Date of Training:

Questions?

CANS

Email:

DOE.SchoolLunch@state.sd.us

Phone: 605-773-3413

Fax: 605-773-6846

SNA SD

Chris Beach

Email:

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